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10/717,534

11/20/2003

Larry W. Simnacher

1170-9

7984

7590

10/27/2005

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EXAMINER

KRUER, STEFAN

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/717,534

Applicant(s)

SIMNACHER, LARRY W.

Examiner

Stefan Krueer

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 16 is/are rejected.
- 7) ☒ Claim(s) 8-15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/20/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/17/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show:

- Item 32, flat bottom surface;
- Item 47, spring.

as described in the specification.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 16 is objected to because of the following informalities: the word "end" is missing from the lines detailing the pivotal connections of the first and second scissors ("... connected at one (end)...") and "tp" should be "to". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simnacher (5,303,969) in view of Anibas (2002/0139618).

Simnacher discloses a body (22) having a storage area therein, said body having a door (64, 66, or 68) that enables access to the storage area. Though Simnacher discloses a hydraulic lifting means, Anibas teaches a scissor lifting means (Fig.'s 1 and 2) as a "... mechanism providing force while maintaining parallelism between a base structure and a movable structure (which) is comprised of opposed pair of linked, rotatably mounted, support arms..." with the lifting means of Anibas capable of moving said body between a first and second position. Furthermore, the Anibas mechanism offers a straightforward mechanical means to raise the body, precluding the need for piping, valves and other items typical to hydraulic systems, in a relatively compact configuration. Therefore, to incorporate the teaching of Anibas in the invention of Simnacher would be obvious to one of ordinary skill in the art, in order to exploit the simple, space-saving and cost-effective features of Anabis, for matters of performance and commercial success.

In Claim 3, while Simnacher discloses the said body (22) with an indentation (28), similar if not identical to that of the apparent invention (28), of area greater than the wheel well of the truck, Simnacher does not disclose a top plate of a scissor lifting means affixed to said body within the indentation, but rather hydraulically actuated piston-and-cylinders (42) mounted on either ends (34 and 36) of the body. In that Anabis teaches a lifting mechanism with a movable structure (2), to affix the movable structure to the body within said indentation would have been obvious to one of ordinary skill in the art to provide a compact lifting configuration.

In Claim 4, Simnacher discloses a surface (18) on the bed of the truck as being a wheel well of the truck.

In Claim 5, while Simnacher does not disclose a scissor lifting mechanism comprising first and second scissors, Anabis discloses two (2) "... opposed arm assemblies ..." whereby "... each consist of two arms... of equal length which are pivotally mounted to each other in the center of each arm assembly" and that each arm assembly "... is rotatably mounted to the base structure... and to the movable structure..." Thereby, Anabis teaches a first beam (4) having one end secured to said top plate (2), and a second beam (4) having an end pivotally secured to said bottom plate (1) and said first beam having an opposite end pivotally connected to an opposite end of said second beam (See Fig. 1).

Regarding Claim 6, Anabis discloses an axle (10) extending through the pivotal connection ("... arm assembly central pivot points...") of said first beam (4) with said second beam (4) and that the axle can be "...turned... by motor..."

In Claim 7, Anabis discloses a linkage (9 in combination with 10) extending from the axle of said first scissors (3) to the axle of said second scissors (3):

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Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anibas in view of Eisenberg (4,405,116).

In Claim 16, Anibas discloses a lifting device comprising a top plate (2), a bottom plate (1), a first and second scissors (both designated 3) pivotally connected at one end to said top plate and an opposite end to said bottom plate, as well as a linkage (7) extending from said first scissors to said second scissors. Though Anibas discloses only a single motor as an alternative to the hand crank, whereby "The screw is turned ... by motor..." Eisenberg teaches, "... it is also possible to provide two parallel spindles for adjusting the scissors" (Col. 6, Line 58). To modify Anibas with the teachings of Eisenberg would have been obvious to one of ordinary skill in the art, in order to reduce the drive requirement per motor, thereby reducing each motor's size (promoting compact design), electrical load and wear.

#### ***Allowable Subject Matter***

Claims 8 – 15, 17 - 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 17 contains allowable subject matter because the teachings of the prior art of record taken as a whole do not show or render obvious the combination set forth including the rotation of the axle at the pivot connection.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moore et al (3,116,910) and Chang (4,653,727) are cited for a parallelogram lift mechanism incorporating a scissor lifting mechanism with worm gear drive and tensional springs and an electrically powered, automotive jack scissor with remote controller, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F, 08:00 - 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*SK*  
*24 Oct 2005*

*Kathy Matecki*

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